rights of property of Donizetti; that the change or translation of the words can have no influence as far as regards the composer of the music; that in the opera in question, the music is so important a part of the lyric work, that an alteration of the words, especially when in so subordinate a form as a translation, cannot alter the peculiar character of expression, or affect the right derived from it.

Being also of opinion with regard to the words, that their authors have therein a right of property which should belong to them fully and exclusively; that if a mere translation were permitted to compete with the original piece, as it is represented at a neighboring theatre, and with the same music, it would occasion to them a real injury, since the, so to speak, bodily (*matérielle*) reproduction of their labor would be of no profit to them.

That it follows thereupon, that Lumley has made use of another's property, in representing at the Italian Theatre the opera of *la Figlia del Reggimento*, without compensation to the authors of the music and the original words, for the use of the copy-right; that the authority given by Saint Georges, so far as it concerned him, cannot in any way affect the rights of Bayard, who has not consented to sacrifice them; being of opinion, moreover, that the heirs of Donizetti have given sufficient proof of their character as such; and adopting finally, so far as is necessary, the reasoning of the judges of the first instance, AFFIRMS their decree.

The *Cour de Cassation*, at its session of January 12th, 1853, affirmed the foregoing judgment.

IMPORTANT ABSTRACT FROM COURT OF APPEALS,

Mississippi, 1853.

COULTER & RICHARDS *vs.* ROBERTSON, TRUSTEE.

It is now the settled doctrine in this State, that upon the dissolution of a corporation, whether by lapse of time or judgment of forfeiture, the principles of the common law are in force, except in so far as they have been altered or modified by legislation.

According to the common law, upon a dissolution of a corporation, all its real estate remaining unsold, reverts to the grantor and his heirs; the debts to and from it are extinguished; and its personal estate vests in the government; and these provisions of the common law, as decided in the *Commercial Bank of Natchez* vs. *Chambers*, 8 S. & M. 17, and now re-affirmed, are applicable to banking corporations, except so far as legislation may have changed them.

By the Act of 26th of July, A. D. 1843, *prescribing the mode of proceeding against iucorporated banks for a violation of their corporate franchises*, (Hutch. Code, 329,) it was, in substance, provided that by a judgment of forfeiture against a bank, its debtors should not be released from their debts and liabilities to the same, but the Court should appoint a trustee "to take charge of the books and assets of the bank, to sue for and collect all debts due to it, and to sell and dispose of all property owned by it, or held by others for its use; and the proceeds of the debts, when collected, and of the property when sold, to apply, as might thereafter be directed by law, to the payment of the debts of such bank;" *held:* that by this law provision was made alone for the *creditors* of a bank subjected to forfeiture under it; there was no saving in behalf of *stockholders;* and so far as their rights and interests in the choses in action and property of the dissolved bank were concerned, they were left unaffected by the act, and were to be controlled by the common law.

The case of the *Commercial Bank of Natchez* vs. *Chambers*, 8 S. & M. 17, cited and reviewed, and the conclusion reached, that so far from recognizing any claim or right to exist in the stockholders of a bank, after judgment of forfeiture and the appointment of a trustee under the act of 1843, to the surplus after the debts are paid, the Court in that case intended, with a full view of the subject, to decide that the creditors were the only parties whose rights were saved by the operation of that act.

Stockholders of a bank, as such are not in any sense of the word creditors of such bank; they constitute the corporation itself; and consequently could not be their own creditors; a preservation, therefore, by legislation, of the assets of a dissolved bank, for the benefit of the creditors of the bank, would not operate in behalf of stockholders; but would rather indicate a legislative intention, to exclude them and leave them to their fate at common law.

As a general rule, in cases where it is doubtful what estate is vested in trustees, they will be presumed to take an estate large enough to enable

them to accomplish the purposes of their trust; but will not by construction be held to take a greater estate than the nature of the trust demands.

When, therefore, a trustee of a dissolved bank, appointed under the act of 1843, has collected funds sufficient *to pay all the debts of such bank*, his powers, duties and rights as such trustee, are at an end; and he cannot lawfully, either at law or in equity, sue for and collect any of the debts that were due such dissolved bank, and yet remain unpaid; and this is the case, whether the powers of such trustee are assimilated to those of a trustee appointed by contract, or whether he be regarded as an officer of Court for certain purposes, with authority and duties defined by the statute; in either case his trust being fully executed by the payment of the demand of the last creditor, his authority as trustee is at an end.

A trustee of a dissolved bank, appointed under the act of 1843, with power to sell and dispose of the property of the bank to pay its debts, has, when he has sold sufficient property for that end, of necessity, no further power to sell; his powers, like those of the sheriff who has levied on and sold real estate sufficient to satisfy the execution under which he makes the sale, are at an end when payment is made.

Nor can there be, after the debts of the bank are paid, any resulting trust as to the residue of the property in the hands of the trustee, in favor of the stockholders; for the reason that *their* rights did not survive the forfeiture, and of course no equities in their favor attached to the surplus; there could be no resulting trust in their behalf when they themselves were not *cestui que trusts.*

In such a case a Court of Equity would not compel the trustee, the creditors being paid, to sue for and collect the remaining choses in action; for the reason that the trust being at an end there would be no person entitled to the fund when collected. And for a like reason the trustee would not, after his trust was satisfied, be allowed to proceed at law.

Whatever may be the impolicy or injustice of the rules of the common law regulating the effect of a judgment of forfeiture, and however unsuited to the present condition of things, and hostile to the enlightened spirit of the age, it is for the Legislature alone to say how far they shall be modified; and when that body has acted, it is the duty of the Court justly to construe their laws and apply them.

In an action in the Circuit Court upon a note payable to a dissolved bank, brought by its trustee appointed under the act of 1843, the defend-

ant pleaded in substance that the plaintiff had paid off and discharged all the indebtedness of the bank, and had therefore no right to sue; on demurrer to this plea, it was *held*, to be no objection to it; that if issue be taken upon it, the Circuit Court would have to try the question, whether the debts of the bank were paid or not, and that was a question merely of fact, which, however complicated the proof, the jury were competent to decide.

LEGAL MISCELLANY.

We have given in another part of this number a recent decision of the *Cour de Cassation*, upon a question of copyright. Another decision of some importance in the law of intellectual property was made at the audience of the 11th of April last, in *Cour Imperial de Paris*. This was the case of *La Societe des Compositeurs* vs. *Les Directeurs des Theatres*. The question was presented in this form. In the year 1852 M. M. Henrion, Dupont, Parisot and others, members of the *Societe des Compositeurs*, brought an action for damages, before the *Tribunal de Commerce*, against the managers of the theatre *des Palais Royal*, and of the *Cirque*, for having introduced into two pieces, the *Trou des Lapins* and the *Chatte Blanche*, certain airs composed by the members of the Society *des Compositeurs*. The managers invoked the assistance of the Society *des Auteurs Dramatiques*. The *Tribunal de Commerce* having decided in favor of the defendants, an appeal was taken, and after an elaborate argument, the decree was reversed and a decision made for the *Societe des Compositeurs*. The Court ruled that the music of romances, and other airs of a light character, constitute intellectual property, however trifling in value, and prohibited the managers from inserting henceforward in the plays performed at their theatres, airs borrowed from the composers without their authority. The managers were condemned each in 100 fr. damages and costs.

—— A recent decision of the Court of Appeals of New York is said to have assimilated checks drawn payable at a particular day to bills of exchange, and to have decided that days of grace are to be allowed to them.

—— A recent Irish paper gives the following under the title of *A Judicial Puzzle*.—One of the most comical stories of Sam Slick relates to a